

## CHAPTER 5

### PUBLIC UTILITIES

#### 5.01 VIDEO SERVICE PROVIDER REQUIREMENTS:

- (1) **EFFECTIVE DATE:** This section shall be effective upon its adoption and publication in the code of ordinances and shall apply to all video service providers whose video franchise area includes any area within the Town of Rome.
- (2) **FEE IMPOSED:** Pursuant to the authority granted in sec. 66.0420(7)(b)1. Wis. Stats., a video service provider fee is hereby imposed in an amount equal to five (5) percent of the provider's gross receipts as that term is defined in sec. 66.0420(2)(j) Wis. Stats.
- (3) **PEG CHANNEL REQUIREMENTS:** Pursuant to the authority granted in 66.0420(5), a video service provider that provides video service in the Town shall provide channel capacity for one (1) public, educational or governmental (PEG) channel. The Town shall ensure that the requirements of sec. 66.0420(5) (c)3 are satisfied.
- (4) **PROCEDURE:** Upon service of a copy of an application for a video service franchise that has been submitted to the Wisconsin Department of Financial Institutions pursuant to sec. 66.0420(3)(d), the Town Clerk shall, within 10 days, notify the applicant of the fee and the PEG channel requirements imposed in this section.
- (5) **CUSTOMER SERVICE STANDARDS:** Pursuant to sec. 66.0420(9) Wis. Stats.; a video service provider shall comply with the customer service standards specified in 47 CFR 76.309(c) in its provision of video service.

## **5.015 CABLE TELEVISION**

**(1) APPLICABILITY:** This section shall apply to an incumbent cable operator, as that term is defined in section 66.0420(2) (L) Wis. Stats. This section shall cease to be effective upon the last date of the term of said operator's existing franchise agreement.

**(2) PURPOSE:** It is the purpose of this Chapter to delineate the rules, regulations, and requirements for a franchise to construct, maintain, and operate a cable television system in the Town of Rome, Wisconsin, and to set forth the obligations and rights of the Town and grantee accompanying said grant.

### **(3) INTENDED SCOPE OF THIS CHAPTER:**

**(a)** The grantee shall construct, operate, and maintain the Cable TV System subject to the supervision of all authorities of the Town who have jurisdiction in such matters and in strict compliance with all laws and ordinances.

**(b)** Notwithstanding any other provisions of this Chapter or grantee's agreement, the grantee shall, at all times, comply with all laws and regulations of the State of Wisconsin and the federal government or any administrative agency thereof, provided, however, if any such state or federal law or regulation shall require the grantee to perform any service or shall permit the grantee to perform any service in conflict with the terms of this Chapter or of any law or regulation of the Town, then as soon as possible following knowledge thereof, the grantee shall notify the Town Board of any conflict believed to exist between such regulation or law and the laws or ordinances of the Town or this Chapter. If the Town Board determines that a material provision of this ordinance is affected by such subsequent action, the Town Board shall have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this Chapter.

**(c)** The grantee shall be excused from complying with any of the terms and conditions of this Chapter or grantee's agreement by any failure of the Town upon any one (1) or more occasions to insist upon or seek compliance with any such terms or conditions.

**(d)** The captions to Sections throughout this Chapter are intended solely to facilitate reading and reference to the Sections and provisions of this Chapter. Such captions shall not affect the meaning or interpretation of this ordinance.

**(4) APPLICATIONS FOR FRANCHISE:** Applications for a franchise to construct or operate a cable television system hereunder shall be filed with the Town Clerk in accordance with the filing instructions promulgated by the Town and shall contain the following written information and provisions. Each application submitted after the effective date of this Chapter shall be accompanied by cash or check in the amount of Two Hundred Fifty Dollars (\$250.00), which sum shall be the fee required for any franchise granted under this Section. In the event that the Town does not grant a franchise, such sum shall be returned to the applicant:

- (a)** The name and business address of the applicant, date of application, and signature of applicant or appropriate corporation officers.
- (b)** A general description of the applicants proposed operation, including, but not limited to, business hours, operating staff, maintenance procedures, management, and marketing staff complement and procedures and place of local business office.
- (c)** A statement of the television and radio services to be provided, including both off the air and locally originated signals.
- (d)** A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the grantee for the public, municipal, and educational channels required to be made available by the SCC regulation.
- (e)** A statement of the applicant's proposed schedule of charges to subscribers.
- (f)** A statement detailing the corporation organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares of stock held by each officer and director.
- (g)** A current copy of the corporation's annual report filed with the Wisconsin Secretary of State.
- (h)** A statement describing all intra-company relationships of the applicant, including parent, subsidiary or affiliated companies.
- (i)** Suitable written evidence from a recognized financial institution addressed to the applicant and to the Town advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise under the terms of this Chapter. If the planned operation is to be internally financed, a certified copy of a corporation board resolution or written statement of all partners shall be supplied authorizing procurement and expenditure of such funds as are required to construct, install, and operate the cable television contemplated hereunder.
- (j)** A statement of existing franchises held by the applicant indicating when the franchises were issued and when the systems were constructed and the present state of the systems in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.
- (k)** A statement as to whether the applicant or any of its officers or directors or holders of five percent (5%) or more of its voting stock has in the past ten (10) years been convicted of any felony.

(l) A statement detailing the prior cable television experience of the applicant, including that of the applicant's officers, management, and staff to be associated with the proposed operation.

(m) The application for franchise shall respond specifically and in sequence to the Subsections of this Section and shall be bound separately from any additional information filed by the applicant. Two (2) copies of the application shall be supplied to the Town; supplementary additional or other information that the applicant deems reasonable for consideration may be submitted at the same time as its application, but must be separately bound and submitted in the above number of copies. The Town may, at its discretion, consider such additional information as part of the application.

(n) The Town reserves the right to require such supplementary, additional or other information that the Town deems reasonably necessary for its consideration of the application. Such modifications, deletions, additions, or amendments to the application shall be considered only if specifically requested by the Town.

(o) Any existing grantee at the time this ordinance becomes effective must supply all information set forth in this Section upon any renewal application.

**(5) ACCEPTANCE AND THE EFFECTIVE DATE OF FRANCHISE:**

(a) Any franchise awarded hereunder and the rights, privileges, and authority granted thereby shall take effect and be in force from and after the thirtieth (30th) day following the award thereof, provided that within thirty (30) days from the day of such award the grantee shall file with the Town the following: a notarized statement by the grantee of unconditional acceptance of the franchise; certificates of insurance as required in Chapter 1 herein; and written notification of the grantee's location and address for mail and official notification from the Town.

(b) The grantee shall have no recourse whatsoever against the Town for any loss, cost, expense, or damage arising out of any provision or requirement of this Chapter or its regulation or from the Town's exercise of its authority to grant additional franchises hereunder.

(c) The grantee expressly acknowledges that, in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority to grant this franchise.

(d) Grantee acknowledges by the acceptance of this Chapter and any franchise agreement with the Town that it has carefully read the terms and conditions of this Chapter, and it is willing to and does accept all the obligations of such terms and conditions, including future amendments. Grantee further agrees that it will not, prior to substantial completion of the system, set up as against the Town any claim that any provision of this Chapter as adopted or any franchise granted hereunder is unreasonable, arbitrary, invalid, or void.

**(6) TERMINATION OR REVOCATION OF FRANCHISE:**

**(a)** After the expiration of the term for which a franchise is granted, the Town, in its sole discretion, may determine whether the grantee shall continue to operate a Cable Television System pursuant to the terms and conditions of this Chapter. If grantee intends to apply for a renewal term, the grantee shall submit an application to the Town not later than ninety (90) days prior to the expiration of the terms stated in grantee's agreement with the Town.

**(b)** In addition to all other rights and powers pertaining to the Town by virtue of this ordinance, grantee's agreement or otherwise, the Town reserves the right to revoke, terminate, and cancel the franchise and all rights and privileges of the grantee hereunder in the event that:

**1.** The grantee violates any provision of this Chapter, any provision of the grantee's agreement, or any rules, orders, or determinations of the Town made pursuant to this Chapter, except where such violation is without fault or through excusable neglect; or

**2.** The grantee becomes insolvent, unable, or unwilling to pay its debts, or has a bankruptcy judgment; or

**3.** There has been a change in the control of the grantee requiring the consent of the Town Board, pursuant to this Chapter, and such consent has been denied or not given; or

**4.** The grantee practices any fraud or deceit upon the Town.

**(c)** Upon the occurrences of any of the events enumerated in this Chapter, the Town Board may, after hearing upon thirty (30) days written notice to the grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the grantee must remedy the cause. If, during the thirty (30) day period, the cause shall be cured to the satisfaction of the Town, the Town may declare the notice to be null and void. If the grantee fails to remedy the cause within the time specified, the Town may revoke the franchise. In any event, before a franchise may be terminated, the Grantee must be provided with an opportunity to be heard before the Town Board. The decision of the Town Board may be subject to judicial review.

**(d)** If the Town determines not to renew the franchise for reasons other than a material breach of their franchise or reasons unrelated to the performance of the grantee or upon receipt of an application for assignment of the franchise, or upon a change of de facto control, the grantee shall first offer all of the grantee's equipment and property situated within the Town and used in conjunction with the operation of the Cable Television System to the Town at fair market value, which value shall include the fair market value of the system as a going concern, including the franchise itself and the rights and privileges granted by the Town. When a franchise is revoked pursuant to this Section or expires and is not renewed because of a material breach of the franchise, grantee's said equipment and property within the Town shall first be offered to the Town at a fair market value, which value shall not include any value for the franchise itself or for any of the rights or privileges granted by the Town. If the determination of fair market value

cannot be negotiated or determined, said value shall be determined by an impartial arbitration procedure pursuant to Chapter 298 of the Wisconsin Statutes, wherein the grantee and the Town shall each choose an arbitrator and the arbitrators shall choose a third arbitrator; the valuation determination by a majority of said arbitrators shall be considered the fair market value at which the system will be offered to the Town. The grantee and the Town shall share the cost of the arbitration procedure equally. The Town shall have ninety (90) days to exercise the right of first refusal to purchase grantee's aforementioned property within the Town, said ninety (90) days commencing on the day the fair market value of the equipment is determined either through negotiation or the arbitration procedure.

**(e)** If the Town does not exercise its option to purchase and grantee's said property is not sold to a person who has obtained a franchise from the Town in a reasonable period of time, the grantee, upon request by the Town, shall not later than six (6) months from the date of such Town request remove its equipment from Town streets. If the Town determines not to exercise its right of first refusal, it shall not unreasonably refuse to renew or grant a cable television franchise during a reasonable interim period. While transfer of the system and franchise is being negotiated, arranged, or ordered, the grantee may be required to continue service to the public and its subscribers unless, for reasons beyond the control of the grantee, said operation will be economically unfeasible to the grantee.

**(f)** If for any reason stated in this ordinance the grantee is required to remove its plant, structures, and equipment from Town roads, the grantee shall fill, at its own expense, any excavation that shall be made by it and shall leave all public streets and places in such condition acceptable to and approved by the Town. During any period of removal, grantee shall be required to maintain the liability insurance required herein and the indemnity to the Town required herein. (Buried cable may be cut off below ground level and abandoned in place.)

**(g)** If the grantee fails to complete any work required by this Chapter or any work required by any other Town law or ordinance within the time established and to the satisfaction of the Town, the Town may cause such work to be done and the grantee shall reimburse the costs thereof within thirty (30) days and after receipt of an itemized list of such costs.

**(h)** Upon the expiration of the grantee's agreement, the Town may, by resolution, on its own motion or request of the grantee, require the grantee to operate the franchise for an extended period of time not to exceed six (6) months from the date of the expiration of the original term of the franchise or any renewal term. All provisions of this Chapter and grantee's agreement shall continue to apply to operations during any extension period. The Town shall serve written notice to grantee of its intent to extend under this Subsection at least ninety (90) days prior to expiration of the original franchise or any renewal term.

(i) If, for a period of six (6) continuous years following the termination of grantee's franchise for any reason, the grantee has failed to remove its equipment from Town streets or the grantee has not sold said equipment to a subsequent franchise holder or the Town has not exercised its rights to purchase such equipment, then any such equipment in any Town street shall be deemed abandoned and title to the same shall revert to the Town upon resolution of the Town Board.

(7) **INSPECTION:** The Town Board shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Chapter.

(8) **SERVICES TO BE PROVIDED:**

(a) The grantee shall maintain its facilities, equipment, and service so that the CATV system is as advanced, as the current state of technology with field-proven equipment will allow, consistent with good economic judgment of the grantee and service requirements of the franchise area. The grantee shall render efficient service in accordance with such rules and regulations as have been promulgated and may be promulgated by the FCC and other federal and state regulatory agencies.

(b) It shall be the right of all residential subscribers, unless prohibited by any law, rule, or regulation, to receive all available services insofar as their financial and other obligations to the grantee are honored.

(c) The grantee shall respond to all service calls and complaints and shall correct malfunctions in its equipment as promptly as possible. The grantee shall respond to requests for service within forty-eight (48) hours after its reception of said request. If the grantee does not respond to a request within said forty-eight (48) hours, the grantee shall refund one thirtieth (1/30th) of its monthly charge to a subscriber for each twenty-four (24) hours or fraction thereof following a request for service except to the extent that the grantee is prevented from responding to said request for service by strike, injunction, or other causes beyond the control of the grantee.

(d) The grantee shall not be obligated to extend service in any area unless there are at least twenty (20) residential structures per contiguous mile.

(e) The grantee shall provide, without charge, three (3) outlets to the primary Town municipal building. If more than three (3) outlets are required in said building or if outlets are requested in any other municipal building within the Town, the grantee shall install the same at the cost of time and materials only. In no event will there be a monthly service charge at any of the said locations. The Subsection shall apply only when service is available near the building location.

**(9) INSURANCE AND INDEMNITY:**

**(a)** At all times during the term of the franchise, the grantee shall obtain, pay all premiums for, and file with the Town Board Certificates of Insurance for the following: A general comprehensive public liability insurance policy indemnifying, defending, and saving harmless the Town, its officers, boards, committees, commissions, agents, and employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death of any one (1) person and One Million Dollars (\$1,000,000.00) for any one (1) occurrence; property damage insurance with the same indemnifications as previously stated in this Subsection from and against all claims by any person whatsoever for property damage occasioned by the construction or operation of the grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of One Hundred Thousand Dollars (\$100,000.00) for property damage in any one (1) occurrence. All of the foregoing insurance policies shall be in a form satisfactory to the Town Attorney, shall be approved by the Board, and shall be maintained by companies authorized to do business in the State of Wisconsin. Said insurance contracts shall require thirty (30) days' written notice of any cancellation to the Town.

**(b)** The grantee shall also, at its sole cost and expense, fully indemnify, defend, and hold harmless the Town, its officers, boards, committees, commissions, and employees against any and all claims, suits, actions, liability, and judgments for damages (including but not limited to expenses for reasonable attorneys' fees and disbursements) arising out of any claim for invasions of the right of privacy, for defamation of any person, firm, or corporation or for the violation or infringement of any copyright, trademark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation, and arising out of the grantee's failure to comply with the provisions of any federal, state, or local statute, ordinance, or regulation applicable to the grantee in this business hereunder. The foregoing indemnity is conditioned upon the following: The Town shall give the grantee prompt notice of the making of any claim or the commencement of an action, suit, or other proceeding covered by the provisions of this Section.

**(10) PROTECTIONS AFFORDED THE GRANTEE:**

**(a)** A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus or equipment of the grantee, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus or equipment of the grantee, or who taps, tampers with, or connects any wire or device to a wire, cable, conduit or equipment of the grantee with intent to obtain a signal or impulse there from without authorization of the grantee, shall be subjected to a forfeiture of not less than Fifty Dollars (\$50.00) or more than Three Hundred Dollars (\$300.00) as determined by the court and shall be liable in a civil action for three (3) times the actual amount of damages sustained thereby. However, this Sub-section shall not prevent the Town (or the designated employee and agents of) from removing,

disconnecting, or otherwise rendering inoperable any of grantee's apparatus or equipment attached or in any way connected to the Town's facilities, if done for reasonable cause.

**(b)** Whoever with intent to defraud obtains or attempts to obtain a signal or impulse from any wire, cable, conduit, apparatus, or equipment of the grantee by any of the following means shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) or more than Three Hundred Dollars (\$300.00) as determined by the court and shall be liable in a civil action for three (3) times the actual amount of damages sustained thereby.

**1.** Rearranging, tampering with, or making connection with any facilities or equipment of the grantee.

**2.** Using any other contrivance, device, or means to avoid payment of the lawful charges, in whole or in part, or the services provided by the grantee's CATV System.

**(c)** This Subsection shall apply when the said CATV System service either originates or terminates or both in this state, or when the charges for said service would have been billable in normal course, by a person providing CATV service in this state, but for the fact that said service was obtained, or attempted to be obtained, by one (1) or more of the means set forth in this Chapter.

**(d)** For purposes of determining the forfeiture set forth in this Chapter, each day of violation of the provisions of said Subsection shall constitute a separate offense.

**(11) RESTRICTIONS AGAINST ASSIGNMENT:**

**(a)** Any franchise granted pursuant to this Chapter shall not be assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto either legal or equitable, or any right, interest, or property therein, pass to or vest in any person either by the act of the grantee or by operation of law without the express consent of the Town Board. The granting, giving, or waiving of any one (1) or more of such consent shall not render unnecessary any subsequent consent or consents.

**(b)** The grantee shall promptly notify the Town Board of any proposed change in, or transfer of, or acquisition by, any other party of control of or the business assets of the grantee. Within sixty (60) days after receiving said notice, the Town Board shall hold a public hearing on this matter and, within ninety (90) days, shall make its recommendations upon the matter. For the purpose of determining whether it will consent to such change, transfer, or acquisition of control, the Town Board may inquire into the qualifications of the prospective controlling party and shall require the prospective controlling party to submit all information and documentation as set forth in this Chapter.

(c) Every change, transfer, or acquisition of control of the grantee, with respect to which the consent of the Town Board is required, pursuant to this Chapter, shall make this franchise subject to revocation unless and until the Town Board shall have consented thereto. If the Town Board denies consent and such change, transfer, or acquisition of control has been effected, the Town may revoke any franchise or permit given pursuant to this Chapter unless control of the grantee is restored to its status prior to the change, or to a status acceptable to the Town Board.

(d) For purposes of this Chapter and the preceding Subsection, a change, transfer, or acquisition of control shall not be effected where less than thirty percent (30%) of the shares of stock in the grantee is made within any calendar year. Changes or transfers of control resulting from the death of a stockholder shall be exempt from the requirements of the previous Subsections.

(e) Nothing in this Section shall be deemed to prohibit a mortgage or pledge of the cable system equipment or any part thereof or a leasing by the grantee from another part thereof for financing purposes or otherwise. Any such mortgage, pledge, or lease shall be subject and subordinate to the rights of the Town under the grantee's agreement or this Chapter and applicable law.

**(12) USE OF TOWN STREET:**

(a) There is hereby granted by the Town the right, privilege, and franchise to construct, operate, and maintain a Cable Television System on the streets of the Town for a period of years as specified in any agreement between the Town and the grantee, subject to the rights, obligations, conditions, and restrictions as hereinafter provided. The right to use and occupy said streets for the purposes herein set forth shall not be exclusive, and the Town reserves the right to grant a similar use of said streets to any person at any time during the period of the grantee's franchise.

(b) All transmission and distributions, structures, lines, and equipment erected by the grantee within the Town shall be located so as not to interfere with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of said streets, alleys, or other public ways and places, and not to interfere with existing public utility installations. All installations shall be underground in those areas of the Town where both of the public utilities providing telephone or electric service are underground at the time of installation. In areas where both telephone and electric utility distribution facilities are above ground at the time of installation, the grantee may install its facilities above ground; but in such case the grantee, to the maximum extent possible subject to approval by the affected public utility, shall place its facilities on the poles of said public utilities. If, subsequently, said telephone or electric utility facilities go underground, the facilities of the grantee shall go underground simultaneously. The use of the grantee of any facilities or installations of a telephone or electric utility and the conditions of said uses shall be determined by negotiations between the grantee and said utility.

(c) In cases of any disturbance of pavement, sidewalk, driveway, or other surfacing, the grantee shall, at its own expense, and in the manner provided by the Town, place and restore all paving, sidewalk, driveway, or other surface of any street or alley disturbed.

(d) If, at any time during the period of grantee's agreement, the Town shall alter or change the grade or location of any street, alley, or other public way, or repair the same, the grantee shall, upon forty-five (45) days' notice by the Town, remove, relay, and relocate its poles, wires, cables, and underground fixtures at its own expense and, in each instance, comply with the requirements of the Town.

(e) From time to time, the Town Board may prohibit placement of grantee's equipment, wires, or facilities from specified areas where the Town Board has determined the location of such equipment, wires, and facilities might or would interfere with or endanger any public or private utility or would violate any applicable safety statute, ordinance, or administrative regulation.

(f) The grantee shall, on request of any person holding a moving permit issued by the Town, temporarily move its wires or fixtures to permit the moving of buildings, the expense of such temporary removal to be paid by the person requesting the same, and the grantee shall be given not less than ninety-six (96) hours advance notice to arrange for such temporary changes.

### **(13) PROTECTION OF INDIVIDUAL RIGHTS:**

(a) The grantee shall not deny service, deny access, or otherwise discriminate against any subscribers, programmers, or general citizens on the basis of race, color, religion, national origin, creed, age, or sex. Nothing in this Subsection shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers nor shall this provision be interpreted to prohibit the establish-ment of a graduated scale of charges and classified rate schedules to which any subscriber or programmer included in a particular classification shall be entitled.

(b) Except with written subscriber consent, neither the grantee, nor any governmental bureau, department, unit, agency, or entity at the federal, state, county, or town level, nor any other person or entity shall monitor or arrange for the monitoring of any subscriber cable, subscriber outlet or subscriber receiver for any purpose whatsoever.

(c) Without the express written consent of a subscriber, the grantee shall not sell, or otherwise make available, lists of the names and addresses of the subscribers, or any lists which identifies, by name, subscribers' viewing habits, to any person, agency, or entity, for any purpose whatever.

**(14) RIGHTS RESERVED BY THE TOWN:**

(a) The right is hereby reserved to the Town to adopt, in addition to the provisions contained herein and any existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police powers, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(b) Nothing in this Chapter shall limit the right of the Town to acquire the Cable System of the grantee through the exercise of eminent domain, condemnation proceedings, or otherwise.

(c) For the purpose of vacating streets, installing utilities and rerouting utilities, the Town of Rome may terminate grantee's rights to use the streets and the facilities of the Town upon resolution of the Town Board and two (2) months' notice to the grantee. Notwithstanding the foregoing, in case of emergency or as a measure to safeguard the health, safety, and welfare of the Town or any of its inhabitants, the Town may, by resolution, prescribe a shorter notice. Any removal of equipment, wires, or facilities of the grantee required by this Subsection shall be done at the sole cost and expense of the grantee. If removal is not made by the grantee in the time required or, in case of emergency, the Town or its lawful representatives may cause the same to be removed at the grantee's expense without notice.

(d) Nothing contained in this ordinance shall be construed to limit or in any other way impair the powers and authorities of the Town, except as expressly stated in this Chapter.

**(15) LIMITATIONS OF THE GRANTEE'S RECOURSE:**

(a) Except as expressly provided in this ordinance and grantee's agreement, grantee herein shall have no recourse whatsoever against the Town for any loss, cost, or expense or damage arising out of the provisions or requirements of this Chapter or because of the enforcement of provisions set forth in Chapter 1.

(b) Any grantee receiving a franchise from the Town pursuant to this Chapter acknowledges by acceptance of a franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all reasonable risks of the meaning of such terms and conditions, and agrees that in the event of any ambiguity thereon or in the event of any other dispute over the meaning thereof, the same shall be construed strictly against the grantee in the favor of the Town.

## 5.02 WATER UTILITY

- (1) **PURPOSE:** The purpose of this section is to regulate and control the operation and use of the public water system within the Town of Rome in order to promote the public health, safety and general welfare of the Town and its citizens. This section is designed to promote reasonable water service for the community and to set forth equitable service systems so as to obtain the maximum public benefit.
- (2) **ADOPTION OF STATE PLUMBING CODE:** The Town Board adopts by reference the state plumbing code, Wis. Admin. Code Chapter SPS 382.
- (3) **SUPPLEMENTARY NATURE OF SECTION:** This section does not supersede the state plumbing code or any other provision of the town code but is supplementary to them.
- (4) **DISCONTINUANCE OF SERVICE FOR VIOLATION:** The water utility is authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Wis. Stats. Ch. 68. If applicable, water service to such property shall not be restored until the cross connection has been eliminated to comply with the provisions of this title.
- (5) **NAME:** The water utility shall be known as the Rome Water Utility.
- (6) **OWNERSHIP/MANAGEMENT:** The Rome Water Utility shall be owned by the Town of Rome but there shall be a nonpartisan management of the water utility by a commission consisting of five (5) commissioners that must be residents of the area of the Town where curbside service of the water utility is available. These commissioners shall be responsible for the entire management of and shall supervise the operation of the water utility. The commission shall have the duties and powers set out in sec. 66.0805(1), (2), and (3), Wis. Stats., together with general powers in the construction, extension, improvement and operation of the water utility. Actual construction work shall be under the immediate supervision of the authority designated by the commission; if outside financing is sought final approval must come from the Town Board. The Town Board shall exercise general control and supervision of the commission by enacting ordinances governing the commission's operation. Commissioners shall be elected by a majority vote of the members of the Town Board. Commissioners shall hold office for a term of five (5) years except the terms of the commissioners first elected shall expire successively one each year on each succeeding first day of October, beginning October 1, 2005.

**(7) COMPLIANCE WITH THE OPEN MEETING LAW:**

**(a)** The Commission shall comply with the provisions of the Wisconsin Open Meetings Law in Ch. 19, Wis. Stats.

**(8) BUDGET AND FINANCIAL REPORTS:**

**(a)** On or before December 31 of each year, the commission shall prepare and adopt a budget for the next succeeding fiscal year.

**(b)** Such budget shall include proposed user charge rates for the next succeeding fiscal year. The budget shall be based on the best available and most recent available information regarding flow, loading, equivalent meters, OM&R costs and other relevant factors, and may include estimates reasonably derived from the data available. The OM&R costs shall include, without limitation, estimated expenses for personnel, capital expenditures, operation of the system, insurance, and maintenance of the facility for the ensuing fiscal year, as well as those costs specifically enumerated elsewhere in these regulations.

**(c)** The commission shall have the power to make adjustments in the budget in order to accommodate specific financial needs during any fiscal year.

**(d)** The commission shall establish and maintain a financial management system, which shall be subject to an independent audit on an annual basis by a certified public accountant. The financial management system shall be maintained in accordance with DNR, EPA and PSC requirements and generally accepted municipal accounting practices.

**(e)** The commission shall annually have prepared by a certified public accountant a financial audit for the prior year. The certified public accountant shall be approved and retained by the commission. The audit shall be prepared in accordance with generally accepted municipal accounting practices and it shall include statements in reasonable detail, accompanied by an opinion of the accountant performing the audit, of financial condition, revenues, operating expenses and of all funds by or for the commission. A copy of the audit shall be delivered to the Town Clerk.

**(9) CUSTOMER RULES & REGULATIONS:**

**(a)** The water utility rules, regulations, ordinances and water rates shall be considered a part of the contract with every person, company, or corporation, who is supplied with water through the water utility; and every such person, company or corporation, by taking water or connecting with the water utility, shall be considered as expressing consent to be bound thereby.

**(b)** The water shall not be turned on for a user except by a duly authorized employee of the water utility. When a plumber has completed a job he or she shall leave the water turned off. This does not prohibit the plumber from testing the work performed.

**(c)** All users shall keep the hydrants, taps, hoses, commodes, urinals, baths, or other fixtures allotted to their use closed except when obtaining water for use, and shall be responsible for any damage or injury that may result to others from the improper use of said water.

**(d)** The water utility shall have power through its employees to enter upon any land for the purpose of examining facilities and infrastructure or to otherwise perform their duties hereunder, without liability therefore. Every user shall permit the water utility employee(s), at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures and the manner in which the pipes and water connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use. The water utility may make inspections pursuant to a warrant as provided by Wis. Stats. §66.0119, or its successor.

**(e)** It shall be unlawful for any person to willfully pollute or otherwise injure any water supplied by the system in any tunnel, aqueduct, reservoir, pipe or other thing, or to willfully injure the system, or any building, machinery or fixture pertaining thereto, or to willfully and without authority of the commission impede or derange the flow of water in any tunnel, aqueduct, pipe or other thing belonging to the said system, or to willfully and without authority of the commission, bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the system for holding, conveying, or distributing water.

**(10) FROZEN SERVICES:**

**(a)** Frozen services up to the curb stop shall be thawed out by and at the expense of the water utility, except where the freezing was caused by contributory fault or negligence on the part of the customer, such as reduction of the grade or undue exposure of the piping in the building or on a customer's property, or failure to comply with the water utility's specifications and requirements as to depth of service, lack of sufficient or proper backfill, etc. Frozen services beyond the curb stop are the property owner's responsibility.

(b) Following the freezing of a service, the water utility shall take such steps and issue such instructions as may be necessary to prevent the refreezing of the same service. No charge shall be made for re-thawing if the instructions are followed. If it is necessary to allow the water to flow to prevent refreezing, the customer must make provisions for proper disposal of the wastewater.

(c) For the period in which the water is allowed to run, the customer served by a meter will be billed according to such owner's meter readings. A new customer or a customer not served by a meter will be charged the average bill for other customers of-the same class receiving service under comparable conditions.

**(11) WATER SERVICES/PIPES:**

(a) The customer shall protect the curb stop and shall keep it free from dirt and other obstructions. The water utility shall not be liable for failure to locate a curb stop and shut off the water in case of a leak on the customer's premises. Any curb stops 1 3/4 inch in diameter or larger shall be Teflon coated and have the impregnated ball type of valve.

(b) All water service apparatus from the street main to the location of the curb stop and including all controls in between, will be maintained and kept in repair by the water utility without expense to the property owner, except when they are damaged by the property owner, tenant, or other agent of the owner.

(c) The user shall maintain at user's expense all water service apparatus from the curb stop to the premises and throughout the premises at the expense of the user. Maintenance shall include the user keeping in good repair and protecting from frost their service pipes, water fixtures and other water apparatus at their own risk and expense. The applicant shall pay all expenses relating to the introduction of water into buildings or private premises.

(d) If the user fails to repair a leaky or broken water service from the curb stop to the house within such time as may appear reasonable to the commission after notification has been served, the water may be shut off and may not be turned on again until the repairs have been completed. If the user does not repair such breaks or leakage, the water service may be repaired by the water utility and charged back to the user.

(e) It is expressly provided that no claim shall be made against the Town of Rome, Water Utility or Commission by reason of breakage, water flow, water pressure, stoppage, or freezing of any service pipe.

**(12) OUTSIDE HYDRANTS:**

(a) Outside hydrants, on premises with a building, after the effective date of the ordinance from which this section is derived shall not be installed by customers unless they are connected to the pipe system of the building used as the residence or business place of the customer. The

point of connection for an outside hydrant must be made after the water meter, as to not bypass the meter itself. If the use of such hydrant produces a serious water hammer, the owner shall correct this condition at such owner's expense by effective means such as the connection of an air chamber to form an air cushion or by changing the type of hydrant.

(b) All outside hydrants on premises with a building, not piped into the building system after the meter, must be removed. Removal must be supervised/inspected by authorized Rome Water Utility personnel and must comply with all governing codes.

(c) All outside hydrants must be removed or comply with the specifications in above section (12) (a) within 10 days after the installation of a water meter.

**(13) ELECTRICAL GROUNDING:** Any electrical grounding to the municipal water system shall be made on the curbside of the water meter and shall be exposed and visible.

**(14) WATER EMERGENCY:**

(a) The commission may declare a water emergency within the areas of the town serviced by the water utility when in its opinion a water shortage exists. A water shortage shall be deemed to exist when the water level in the town's elevated water storage tank cannot be maintained at a constant level due to a low groundwater table, mechanical failures or for any other reason.

(b) A water emergency shall not be deemed to be in effect until the commission shall pass a resolution declaring the existence of such emergency at a regular or special meeting of the commission and upon publication of a notice of such resolution as a class 1 notice as provided by law. Such emergency shall remain in effect until publication of notice by the commission that the emergency no longer exists.

(c) Except as otherwise authorized by the commission, no person shall, during the existence of a water emergency, use any water except water from private sources for sprinkling of lawns, gardens and other vegetation; nor shall any such person use any such water for the private washing of vehicles. If authorized, such uses shall only be conducted on even-numbered days of the month for those premises bearing an even-numbered house number and on the odd-numbered days of the month for those premises bearing an odd-numbered house number.

**(15) CROSS CONNECTIONS:**

(a) **Definitions Of Cross Connection:** A cross connection is defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the water utility system, and the other of which contains water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems.

**(b) Unprotected Cross Connections Prohibited.** No person, firm, or corporation may establish or maintain, or permit to be established or maintained, any unprotected cross connection. Cross connections shall be protected as required in ch. COMM 82, Wisconsin Administrative Code.

**(c) Inspection.** The commission may inspect, or arrange for an inspection of, property served by the water utility system for cross connections. As an alternative, the water utility may require a person, firm, or corporation who owns, leases, or occupies property to have their plumbing inspected, at their own expense, by a State of Wisconsin Certified Cross Connection Inspector/Surveyor. The frequency of inspections shall be established by the commission in accordance with Wisconsin Administrative Code. Any unprotected cross connections identified by the inspection shall be promptly corrected. Failure to promptly correct an unprotected cross connection shall be sufficient cause for the water utility to discontinue water service to the property, as provided under paragraph (f) of this subsection.

**(d) Right of Entry.** Upon presentation of credentials, a representative of the water utility shall have the right to request entry, at any reasonable time, to a property served by a connection to the water utility system for the purpose of inspecting the property for cross connections. Refusing entry to such water utility representative shall be sufficient cause for the water utility to discontinue water service to the property, as provided under paragraph (f) of this subsection. If entry is refused, a special inspection warrant under Section 66.0119 of the Wisconsin Statutes, may be obtained.

**(e) Provision of Requested Information.** The water utility may request an owner, lessee, or occupant of property served by a connection to the public water system to furnish the water utility with pertinent information regarding the piping systems on the property. Refusing to provide requested information shall be sufficient cause for the water utility to discontinue water service to the property, as provided under paragraph (f) of this subsection.

**(f) Discontinuation Of Water For Violation.** The water utility may discontinue water service to any property wherein any unprotected connection in violation of this subsection exists, and take other precautionary measures deemed necessary to eliminate any danger of contamination of the water utility system. Water service may be discontinued, however, only after reasonable notice and opportunity for hearing under Chapter 68, Wisconsin Statutes, except as provided in paragraph (g) of this subsection. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.

**(g) Emergency Discontinuance;** If it is determined by the water utility that an unprotected cross connection or emergency endangers public health, safety, or welfare, and requires immediate action, and if a written finding to that effect is filed with the Town Clerk and delivered to the customer's premises, water service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wisconsin Statutes, within 10 days of such emergency discontinuance. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.

**(16) CURB STOPS:**

(a) There shall be assessed and levied against the property and premises to be served thereby the cost per lateral at the rate on file with the secretary of the water utility, for installation of curb stops tapped to water mains of the water utility. Deferred curb stops shall be charged at the current rate in effect at the time they are placed in service.

(b) Every person connecting into the water utility, or extending or altering any existing supply from the curb line, or within the street property line shall file an application with the water utility made in writing on such form as shall be prescribed by the water utility and must be signed by the plumber making the connection. A representative of the water utility must inspect the connection at the point of connection prior to backfilling. The application must state truthfully and fully the intended use for which the application is being made, must provide the complete and correct legal description of the property to be served, description of the work to be done, character of the supply pipe, and the fixtures or appliances to be supplied. If the occupant is not the owner of the premises, the written consent of the owner must accompany the application.

(c) No person may hereafter connect to the water utility without application approval. Following submission to the water utility, the commission's agent or designee shall review the application. The application shall be approved if the application is complete, the service applied for provides adequate service for the contemplated use, and the service work to be performed is in compliance with State, County and Local laws and standards. The reviewing commission agent or designee may reject an application not meeting the listed standards. If the application is rejected, the applicant may appeal the rejection to the commission within 15 days of the date of the rejection by submitting a written request to appeal the commission. The commission shall hold a hearing on the appeal within 40 days of submission of the written appeal request to them and render a decision on the appeal within 30 days following the hearing.

(d) The water utility may, as it deems desirable, install such curb stops at such place as present use or future possible or probable use of any premises situated in or upon streets in which such mains are installed.

**(17) OPERATING RULES:**

(a) The "Standard Rules" published by the state public service commission shall be applicable to operation of the water utility.

(b) Reasonable care will be exercised in the proper delivery of water bills. Failure to receive a water bill, however, shall not relieve any person of the responsibility for payment of water rates within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

(c) The property owner is held responsible for all water bills on premises that he/she owns. It is the responsibility of the property owner to provide a current billing address.

(d) Whenever a property served by the water system is to be vacated, or whenever any person desires to discontinue service from the system, the water utility must be notified in writing so that it may remove the meter and/or shut off the water. The owner of the property shall be liable for any change/damage to the property of the water utility by reason of failure to notify the water utility of such vacancy.

(e) No person shall, without authority of the commission, operate any valve connected with the street or supply mains, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or wantonly injure or impair the valve or hydrant

(f) Water for construction use. Water used for construction work must be covered by a written permit, which can be obtained only from the water utility. In no case will any employee of the water utility turn on water for construction work unless the contractor first presents a permit. Upon completion of the construction work, the contractor must return the original permit to the water utility, together with a statement of the actual amount of construction work performed.

(g) Permission may be granted by the water utility to use a hydrant. No hydrant shall be used until it is equipped with proper valve and in no case any valve will be set or moved except by a member of the Water utility, or its authorized agent. An application must be made to the water utility for setting a valve and the applicant must pay plus \$1.41 (or current rate approved and on file with the Public Service Commission) per thousand gallons of water or proportionate fraction thereof.

(h) Customers shall not allow contractors, masons or other persons to take water from their premises without first showing a permit from the water utility.

(i) Customers taking water for supplying boilers for generating steam or for other general uses and depending upon the water pressure for supply will do so at their own risk, and the water utility shall not be liable for any damages because of the lack of pressure or failure of supply.

(j) The unattended use for a duration of more than eight (8) hours of water from an un-metered water supply system for irrigation, washing, watering or other non-essential purposes shall be prohibited.

(k) Water service charges shall be collected and taxed and shall be a lien upon the property served in the same manner as prescribed and in accordance with the provisions of Wis. Stats., §66.0809, or its successor.

**(18) SERVICE RULES:**

(a) Where excavating machines are used in digging sewers, all water mains shall be maintained at the expense of the contractor. Contractors must ascertain the existence and location of all service pipes. Where they are removed, cut or damaged in the construction of a sewer, the contractor must, at his or her own expense, cause them to be replaced or repaired at once. The

contractor must not shut off the water service pipes from any customer for a period exceeding six hours. Permission must be first obtained in writing from the water utility before any excavation is made. All of the provisions of the Town of Rome Ordinances shall be fully complied with by any such contractor or other person who shall excavate or cause any excavation for the purposes set forth in this paragraph.

**(b)** The water utility reserves the right to shut off the water in the mains temporarily and to make repairs, alterations or additions to the plant or system. When the circumstances will permit, the water utility will give notification by newspaper publication or otherwise of the discontinuance of the supply. No rebate or damages will be allowed to customers for such temporary suspension of supply.

**(c)** No persons, unless authorized by the water utility, shall be permitted to tap or make any connection with any street main or distribution pipe. This work will be done in accordance with the rules of the water utility.

**(d)** No water shall be taken without proper permit. Parties desiring to introduce water on their premises must make formal application to the water utility office and sign an application card or permit constituting a contract for water supplied and its specific use, which contract references this section as part of the contract.

**(e)** Each applicant for water service shall, at the time of making application for such service, execute and deliver to the water utility a contract for such water service, agreeing to put in the service pipe from the curb line to each piece of water-using property existing at that point and owned by the applicant where such water is desired, at the expense of such applicant, and to commence the payment for such water service when a bill is rendered. For all duplexes constructed after the effective date of this section, a separate service pipe from the curb line shall be provided for each living unit in the duplex; and each such living unit shall have a separate water meter when meters are made available to residential users and remote external reader. Multiple-family units larger than duplexes may install separate meters at the discretion of the owner.

**(f)** Any permit given for water service shall require that not more than one dwelling house, apartment building, hotel, business house or factory shall be served by one connection.

**(g)** If a violation of this section exists when service pipes are replaced or when permanent street improvements are made, such violation shall be corrected at the time of such replacement or improvements.

**(h)** Plumbers shall not connect two services to one tap, but each building must have one distinct and separate tap and service pipe laid not less than six feet below the surface after the street is brought to grade. Each service must be provided with a curb stop and metal extension stop box outside of the premises connected with the service. Supply pipes shall not be laid across the connecting adjoining premises, whether owned by the same or different parties. Every service pipe where it enters the cellar shall be furnished with a stop and waste cock so situated below the action of frost that the water can be completely shut off and drained from the pipes when necessary to prevent freezing.

**(19) EXCAVATIONS AND TAPPING:**

**(a)** In making excavations in streets or highways for laying service pipe or making repairs, the excavated material must be deposited in a manner that will create the least inconvenience to the public and provide for the passage of water along gutters or drainage ways. Proper erosion control practices in accordance with Town and State requirements must be followed.

**(b)** No person shall leave any such excavation made in any street or highway open at any time without barricades; and during the night, warning lights must be maintained at such excavations.

**(c)** In refilling the excavation after the service pipes are laid, the earth must be laid in layers of not more than 12 inches in depth; and each layer thoroughly compacted to 96% or greater density to prevent settling. This work, together with the replacing of sidewalks, curb and gutter, landscaping and paving, must be done so as to replace the street to as good or better condition as before it was disturbed, and satisfactory to the Commission or its agent. No opening of the streets for tapping the water mains will be permitted when the ground is frozen.

**(d)** No persons, except those having special approval and permission from the water utility will be permitted, under any circumstance, to tap the water mains or collection pipes, or insert corporation valves, saddles, or piping between the main and the curb stop therein. The kind and size of the connection with the pipe shall be that specified in the permit or order from said Commission. Pipes should be tapped at the 2:00, 10:00 or 12:00 position and not within six inches of the joint, hub or another cap, or within 24 inches of another lateral connection.

**(e)** After water connections have been introduced into any building or upon any premises, no plumber shall make any tap or connection with the pipes upon such premises, for alteration, extensions or attachments on the curb side of the meter, unless the party ordering such tapping or other work shall exhibit the proper permit from the Rome Water Utility and/or Town of Rome.

**(20) METERS:**

**(a)** Meters when made available by the water utility will be furnished and placed by the water utility and are not to be disconnected or interfered with by the customer. All meters shall be so located that they shall be preserved from obstructions and allow easy access for reading and inspection; such location to be designated by the water utility. The customer must supply all piping within the building. If the customer desires additional meters, he shall pay for all piping in an amount sufficient to cover the cost of maintenance and depreciation as set by the commission. All users and persons desiring to connect to the water utility must provide a location for a water meter, and to maintain such location and passageway thereto in a clean and sanitary fashion and free from any obstruction or any condition of a hazardous nature. No connection for water meters shall be installed in any location not easily accessible, which is or may be unclean, unsanitary or in any manner unsafe to water utility employees.

**(b)** Water utility to repair: Meters will be repaired by the water utility. The cost of such repairs will be borne by the water utility only if they result from ordinary wear and tear.

**(c)** Damage caused by owner: Any damage to a meter resulting from the carelessness of the owner of the premises, his agent or tenant, or from the negligence of any one of them to properly secure and protect the meter, including any damage that may result from allowing a water meter to become frozen or to become injured from the presence of hot water or steam in the meter shall be paid for by the customer or the owner of the premises.

**(d)** When the utility has reasonable evidence that a customer is obtaining his supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the water being delivered, the water utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference; such bill shall be payable subject to a 24-hour disconnection of service. When the water utility shall have disconnected the customer for any such reason, the water utility will reconnect the customer upon the following conditions:

1. The customer will be required to deposit with the water utility an amount sufficient to guarantee the payment of the customer's bills for water utility service to the water utility.
2. The customer will be required to pay the water utility for any damages to its equipment of the customer premises due to such stoppage or interference with its metering.
3. The customer must further agree to comply with reasonable requirements to protect the water utility against further losses.

(e) If installing new service piping, the customer shall, at the customer's own expense, provide the proper connections for the meter. Proper connections shall include the use of gate valves before and after the meter. No piping other than K copper shall be used on services from the curb stop to the meter. Where it is possible to set meters in the basement, a short nipple shall be inserted at the proper length. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the water utility, which may later be removed for the insertion of the meter into the supply line. No permit will be given to change from metered to flat rate service.

(f) If a customer demands that a test be made of his meter in addition to the periodic or installation test, he or she shall pay a test fee set by the water utility commission per inch of nominal size or fraction thereof. If the meter is found fast in excess of two percent, the payment for the test will be refunded and the usual adjustment made in the past bills.

**(21) CONNECTIONS, FEES AND CHARGES:**

(a) For the purpose of this Section, an improved parcel shall mean a parcel containing a building suitable for human habitation, recreation, occupancy or for the conduct of any trade, business or industry.

(b) For the purpose of this Section, a parcel which contains a camping unit, whether on or off wheels, whether towed or carried on a motor vehicle or self-propelled as its principle structure-in use and occupied on the parcel, or in use for camping in accordance with Sec. 10.11(2)b will be considered an improved parcel. The definitions of camping unit shall not include a tent.

(c) A water main located on the opposite side of the road is considered adjacent to the water main.

(d) Connections: Owners of improved parcels of land adjacent to a water main shall connect to the water main as follows:

1. Existing and Extended Lines: Except as provided in sub. pars. 2 & 3 hereafter, an improved parcel of land adjacent to an existing and/or extended water main shall connect to the main within one (1) year from the date of written connection notice from the Water Utility or upon occupancy.

2. An improved parcel with a principal structure located in its entirety more than two hundred (200) feet from the property line nearest the water main shall be exempt from connection to the Water Utility.

**3. Deferred Connection:**

**a.** An improved parcel located within a recorded subdivision may defer connection to an extended water main for a maximum period of ten (10) years from the date the well serving the parcel was installed. It is the obligation of the property owner to provide adequate proof as to the date the well was installed.

**b.** An improved parcel located outside of a recorded subdivision and adjacent to a water main may defer connection to the Water Utility for a maximum period of ten (10) years.

**c.** A property owner who defers connection must pay a standby charge pursuant to par. (e), herein until the time of such connection and shall be solely responsible for all costs associated with connection when the deferred connection occurs. During the period of deferral, the property owner must provide access for sampling of the well water for that property to the Rome Water Utility for testing once every two (2) years. The property owner shall be responsible for the costs of the testing. In the event the testing reveals that the well water is unsafe for human consumption the property owner must connect to the Water Utility within sixty (60) days. In addition, if during the period of deferral the property is sold, the new property owner must connect to the water main within sixty (60) days from the date of sale.

**4. Penalty:** Upon failure to connect as provided in subsection (b) of this Section, a forfeiture shall be payable in the sum of one hundred dollars (\$100.00) per month per parcel.

**(e) Forced Connections:** Upon the failure of the owner of an improved parcel to connect to a water main as required in par. (b) above, the Water Utility shall cause the connection to be made, and the property owner shall be responsible for all connection costs. If such costs are not paid within thirty (30) days of written demand for payment, the costs shall be assessed against the property and collected in the same manner that real estate taxes are collected. However, the owner may, within thirty (30) days after the completion of the connection, file a written request with the Water Utility for the payment of such costs in five (5) equal annual installments, together with interest, not to exceed 15% per year, at the prime lending rate as published by the Wall Street Journal on the day the request is made. The unpaid balance shall constitute a special tax lien against the property pursuant to the requirements of Wis. Stats. §281.45.

**(f)** Following the enactment of these regulations, no new private well used for potable water or other human consumption shall be installed within the area physically served by the Water Utility.

**(g) Standby Charge:** A standby charge shall apply to each buildable parcel of record for which water system facilities are available but not connected. Standby service shall be billed quarterly. Standby charges shall be under the same billing rule as a general service customer.

**(22) EXTENSIONS:** Extensions are governed by the Public Service Commission's operating rules and rate file. [Schedule No. Cz-1, X-2, X-3.] Extensions may be paid by special assessment pursuant to sec. 2.09 of the Town Code.

**(23) WATER UTILITY RATES:**

**(a)** The rates for water used in the Town are the current rates as established by the most recent Public Service Commission ruling, on file with the Secretary of the water utility.

**(b)** Bills for water service are rendered quarterly and become due and payable upon issuance following the period for which service is rendered. A penalty as determined by the Public Service Commission will be added to any bill not paid by the due date. If the bill is not paid, the customer will be given a past due notice that the bill is delinquent. If payment still is not made a disconnection notice will then be given, unless payment or satisfactory arrangements for payment is made within ten (10) days, service will be discontinued without further notice, and a re-connection charge prescribed by the Public Service Commission shall be paid before water service is restored.

**(24) CUSTOMER'S PREMISES WITH SEVERAL BUILDINGS:** When a customer's premises has several buildings, each supplied with service and metered separately, the full service charge will be billed for each meter separately, and the readings not accumulated. If these buildings are all used in the same business and are not connected by the customer, they can be metered in one (1) place. If the water utility, for its own convenience, installs more than one (1) meter, the readings will be cumulated for billing.

**(25) PUBLIC SERVICE:**

**(a)** Water service supplied to Town buildings, schools, etc., shall be metered when meters are provided by the water utility and regular service rates applied.

**(b)** Water used for flushing sewers, street sprinkling, flooding skating rinks, drinking fountains, filling swimming pools, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the water utility Commission shall estimate the gallons of water used, based on the pressure, size of opening, and period of time water is allowed to flow. The estimated quantity shall be billed at the rate as set by current Public Service Commission ruling, on file with the Water Utility secretary.

**(26) BUILDING AND CONSTRUCTION WATER SERVICE:** Metered service rates when meters become available shall apply to all building and construction water service.

**(27) PRIVATE FIRE PROTECTION SERVICE:**

- (a)** Private fire protection service shall consist of connections for automatic sprinkler systems, standpipes (where they are connected permanently or continuously to the mains), and private hydrant systems.
- (b)** Quarterly demand charges for private fire protection service are as outlined by the Public Service Commission, on file with the Water Utility secretary.
- (c)** Private fire protection service permits must be obtained from the water utility before installation or upgrade.

**(28) WELL ABANDONMENT AND WELL OPERATION PERMIT:****(a)** Definitions:

- 1.** “Noncomplying” means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
- 2.** “Pump installation” means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pit less adapters, pressure tanks, pits, sampling faucets and well seals or caps.
- 3.** “Unsafe” well or pump installation means one which produces water which is bacteriologically contaminated or contaminated with substances which exceed the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
- 4.** “Unused” well or pump installation means one which is not used or does not have a functional pumping system.
- 5.** “Well” means a drilled hole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
- 6.** “Well Abandonment” means the proper filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.

**(b)** Abandonment Required: All wells on premises served by the water utility shall be properly abandoned in accordance with or par. (d) herein by (insert date) or not later than (days) [90 days to 1 year] from the date of connection to the municipal water system, unless a valid well operation permit has been issued to the well owner by the water utility under terms of par. (c), herein.

(c) Well Operation Permit: Owners of wells on premises served by the water utility wishing to retain their wells for any use shall make application for a well operation permit for each well no later than (days) [90 days to 1 year] after connection to the water utility. The water utility shall grant a permit to a well owner to operate a well for a period not to exceed 5 years providing all conditions of this subsection are met. A well operation permit may be renewed by submitting an application verifying that the conditions of this section are met. The water utility or its agent may conduct inspections and water quality tests or require inspections and water quality test to be conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the water utility. All initial and renewal applications must be accompanied by a fee set by the commission.

(d) The following conditions must be met for issuance or renewal of a well operation permit;

1. The well and pump installation shall meet the Standards for Existing Installations described in s. NR 812.42, Wisconsin Administrative Code. The well and pump system shall be evaluated by a licensed well driller or pump installer and certified on the Wisconsin Well and Pressure System Inspection Form 3300-221 to comply with ch. NR 812 subch. IV, prior to issuing the initial permit and no less than every 10 years afterwards.

2. The well and pump shall have a history of producing safe water evidenced by at least 1 coliform bacteria sample. In areas where the Department of Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical tests may be required to document the safety of the water.

3. There shall be no cross-connections between the well's pump installation or distribution piping and the water utility system.

4. The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the sewer utility.

5. The private well shall have a functional pumping system.

6. The proposed use of the private well shall be justified as reasonable in addition to water provided by the water utility.

(e) Abandonment Procedures:

1. All wells abandoned under the jurisdiction of this subsection shall be done according to the procedures and methods of s. NR 812.26, Wisconsin Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

2. The owner of the well, or the owner's agent, shall be required to obtain a well abandonment permit prior to any well abandonment and shall notify the water utility at least 48 hours in advance of any well abandonment activities. The abandonment of the well may be observed or verified by personnel of the water utility.

3. An abandonment report form, supplied by the Department of Natural Resources, shall be submitted to the water utility and the Department of Natural Resources within 30 days of the completion of the well abandonment. The form must be completed by the licensed well driller, pump installer, or certified operator performing the abandonment.

(f) Enforcement: If any person fails to comply with this subsection for more than 30 days after receiving written notice of the violation, the Town may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

(29) **APPLICATION:** If any provision of this Section conflicts with rules or orders issued by the Wisconsin Public Service Commission, such rules or orders shall prevail.

(30) **PENALTIES:** Any person who shall violate any of the provisions of this Section shall, upon conviction of such violation, be subject to forfeiture for such violation(s) as provided in Sec. 1.02 of the town code. In addition to the forfeiture provided in Sec. 1.02, the Town may seek other remedies including appropriate injunctive relief for said violations in a court of competent jurisdiction.

## **Declaration/Ordinance/Amendment Number**

Amendment

Dated

2016-02

02/04/2016